

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF DELAWARE

JOHN TURNER : CIVIL ACTION
:
V. :
:
B.V. SHIPPING :
GRONNIGEN (LUZON STRAIT) : NO. 04-CV-0936

COPY

MARCH 29, 2005

ORAL DEPOSITION OF CLIFFORD
J. LASCH, TAKEN PURSUANT TO NOTICE, WAS
HELD AT THE OFFICES OF DELAWARE RIVER
STEVEDORE'S OFFICE, TIOGA AND ALLEGHENY
AVENUE, PHILADELPHIA, PENNSYLVANIA,
BEGINNING AT 10:05 A.M., ON THE ABOVE
DATE, BEFORE NANCY D. RONAYNE, A
PROFESSIONAL COURT REPORTER AND NOTARY
PUBLIC IN THE COMMONWEALTH OF
PENNSYLVANIA.

ESQUIRE DEPOSITION SERVICES
15TH FLOOR
1880 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA, PENNSYLVANIA 19103
(215) 988-9191

EXHIBIT

4

1 APPEARANCES :

2
3 FREEDMAN AND LORRY, P.C.

4 BY: STANLEY B. GRUBER, ESQUIRE

5 400 MARKET STREET

6 SUITE 900

7 PHILADELPHIA, PA 19106-2509

8 (215) 931-2510

9 REPRESENTING THE PLAINTIFF

10 PALMER, BIEZUP & HENDERSON, LLP

11 BY: RICHARD Q. WHELAN, ESQUIRE

12 956 PUBLIC LEDGER BUILDING

13 620 CHESTNUT STREET

14 PHILADELPHIA, PA 19106-3409

15 (215) 625-9900

16 REPRESENTING THE DEFENDANT

17 - - -

CLIFFORD J. LASCH

1 - - -
2 (LASCH-1 AND -2 MARKED FOR
3 IDENTIFICATION.)
4 - - -

5 CLIFFORD J. LASCH, AFTER
6 HAVING BEEN DULY SWORN, WAS
7 EXAMINED AND TESTIFIED AS FOLLOWS:
8 - - -

9 DIRECT EXAMINATION
10 - - -

11 BY MR. WHELAN:

12 Q. MR. LASCH, MY NAME IS
13 RICHARD WHELAN, I REPRESENT THE OWNERS OF
14 THE SHIP CALLED THE LUZON STRAIT. THE
15 SHIP OWNER OR MY CLIENT HAS BEEN SUED BY
16 LONGSHOREMAN JOHN TURNER IN CONNECTION
17 WITH AN ALLEGED ACCIDENT OF NOVEMBER 8,
18 2002 THAT OCCURRED IN THE PORT OF
19 WILMINGTON. AND HE'S TESTIFIED AND THE
20 RECORDS INDICATE THAT HE WAS EMPLOYED BY
21 DELAWARE RIVER STEVEDORES ON THE DATE OF
22 HIS ACCIDENT.

23 YOU'VE BEEN IDENTIFIED
24 BECAUSE YOUR NAME AS A POTENTIAL WITNESS

CLIFFORD J. LASCH

1 GIVE YOUR ANSWER. OKAY?

2 A. UH-HUH.

3 Q. STATE YOUR FULL NAME FOR THE
4 RECORD PLEASE?

5 A. CLIFFORD JOSEPH LASCH.

6 Q. WHAT IS YOUR PRESENT HOME
7 ADDRESS?

8 A. 13 CYPRUS POINT COURT,
9 BLACKWOOD, NEW JERSEY.

10 Q. WHAT'S THE ZIP CODE THERE?

11 A. 08012.

12 Q. AND YOUR HOME TELEPHONE
13 NUMBER?

14 A. (856) 227-2531.

15 Q. DO YOU PLAN TO BE AT THAT
16 ADDRESS FOR THE FORESEEABLE FUTURE?

17 A. YES. YES.

18 Q. AND WHAT'S YOUR DATE OF
19 BIRTH?

20 A. 8/14/46.

21 Q. AND BY WHOM ARE YOU
22 PRESENTLY EMPLOYED?

23 A. DELAWARE RIVER STEVEDORES.

24 Q. HOW MANY YEARS, WHEN DID YOU

CLIFFORD J. LASCH

1 START WORKING FOR DRS -- WE'LL CALL
2 DELAWARE RIVER STEVEDORES DRS -- WHEN DID
3 YOU FIRST START WORKING FOR THEM?

4 A. '97 OR '98, ABOUT
5 EIGHT YEARS.

6 Q. ABOUT EIGHT YEARS. AND WHAT
7 IS YOUR PRESENT TITLE OR JOB FOR DRS?

8 A. TERMINAL SLASH SHIP
9 SUPERINTENDENT.

10 Q. AND YOU'RE PRESENTLY
11 ASSIGNED TO THE TIOGA MARINE TERMINAL?

12 A. THAT'S CORRECT.

13 Q. THIS ACCIDENT WHICH I
14 DISCUSSED WITH YOU A LITTLE BIT EARLIER
15 OCCURRED ON NOVEMBER 8TH, 2002 AT THE
16 WILMINGTON MARINE TERMINAL, AT THAT TIME
17 ON THAT DATE WHAT WAS YOUR TITLE WITH
18 DRS?

19 A. TERMINAL MANAGER WITH DRS IN
20 WILMINGTON.

21 Q. COULD YOU TELL US HOW LONG
22 -- THE TIME PERIOD DURING WHICH YOU WERE
23 ASSIGNED TO THE WILMINGTON MARINE
24 TERMINAL, IF YOU WERE ASSIGNED?

1 A. YES, I WAS ASSIGNED AT THE
2 DELAWARE MARINE TERMINAL FROM US FIRST
3 GOING IN THERE I GUESS -- WHEN DID THAT
4 OCCUR?

5 Q. NOVEMBER OF 2002.

6 A. I WOULD SAY 2001 TO 2003, I
7 WAS THERE FOR THREE YEARS.

8 Q. AND COULD YOU TELL US WHAT
9 YOUR JOB DESCRIPTION OR DUTIES WERE AS
10 THE TERMINAL MANAGER OR STEVEDORE -- IS
11 IT TERMINAL MANAGER OR STEVEDORE
12 SUPERVISOR?

13 A. ACTUALLY, IN WILMINGTON IT
14 ENCOMPASSED EVERYTHING. YOU ACTUALLY
15 WERE SUPERINTENDENT ON ALL THE VESSELS
16 THERE YOU WERE IN ATTENDANCE ON A
17 MAJORITY IF NOT ALL VESSELS THAT WERE
18 DONE THERE, IF I WAS ONLY THERE FOR A
19 MOMENT OR IF I WAS THERE FOR THE ENTIRE
20 PRACTICE OR THE ENTIRE PROCEDURE. I WAS
21 ALMOST ON EVERY VESSEL IN DELAWARE WHEN I
22 WAS THERE.

23 Q. WHEN YOU SAY YOU WERE ON YOU
24 MEAN YOU WERE LITERALLY WENT ABOARD AT

1 SOME POINT IN TIME?

2 A. I WAS ACTUALLY ABOARD EVERY
3 SHIP ACTUALLY WAS IN PROBABLY 70 PERCENT
4 OF THE TIME I WAS THE ACTIVE
5 SUPERINTENDENT ON THERE ALSO.

6 Q. COULD YOU TELL US WHAT ARE
7 THE DUTIES OF THE STEVEDORING
8 SUPERINTENDENT FOR DRS AT THAT TERMINAL
9 BACK IN NOVEMBER 2002?

10 A. WELL, THE PRIMARY THING WAS
11 TO HIRE THE LABOR FROM THE ILA UNDER
12 CONTRACT TO WORK THE VESSELS IN
13 CONJUNCTION WITH CONTRACTS OF THE
14 CUSTOMERS. SO THE CUSTOMER WOULD TELL ME
15 THEY HAVE A SHIP THAT WANTS TO START AT A
16 CERTAIN TIME AND WE KNOW HOW MANY MEN AND
17 WHAT TIME THEY WANT TO START AND WHAT
18 GEAR AND EQUIPMENT WE NEEDED AND THAT WAS
19 MY JOB TO MAKE SURE THAT ALL THOSE WERE
20 PUT INTO -- INTO POSITION. AND IF YOU
21 HAD AN EIGHT O'CLOCK START, START AT
22 EIGHT O'CLOCK WITH HOW MANY GANGS AND
23 WHATEVER THE COMMODITY WOULD BE WHETHER
24 IT WOULD BE JUICE, FRUIT, MEAT, BULK

1 CARGOES. WE DID AN INORDINATE AMOUNT OF
2 BULK CARGO MORE SO THAN BREAK BULK.

3 Q. AND WHO WOULD BE DIRECTLY,
4 IF YOU WERE THE STEVEDORING SUPERVISOR
5 WHO WOULD BE THE PERSON THAT WOULD REPORT
6 TO YOU DIRECTLY BELOW YOU, WOULD THERE BE
7 ANOTHER SORT OF COMPANY PERSON OR WOULD
8 THERE BE A UNION PERSON?

9 A. WELL, THERE WERE TWO OF US
10 DOWN THERE, THERE WAS A FELLOW NAMED GARY
11 LEWIS, HE WAS ACTUALLY WE WERE IN PRETTY
12 MUCH THE SAME SITUATION, I WAS SOLID
13 COMPANY HE WAS COMPANY SLASH UNION. HE
14 WAS STILL AN ILA LABOR AND HE, IN
15 WILMINGTON THEY USE ILA PEOPLE AS
16 SUPERINTENDENTS ALSO. SOMETIMES IN A
17 FULL CAPACITY AND SOMETIMES WE CO-WORKED
18 THE VESSELS, I BELIEVE THAT PARTICULAR
19 VESSEL I WAS ON PRETTY MUCH, WE BOTH
20 STARTED THAT VESSEL I'M PRETTY SURE BUT
21 I'D HAVE TO CHECK MY RECORDS. I THINK WE
22 HAD A BULK SHIP WORKING IT LIKE THE
23 SECOND OR THIRD DAY OF THAT VESSEL AND
24 MR. LEWIS WAS ON THE BULK AND I HAD THIS

1 BY MYSELF I THINK. BUT IT WAS LIKE A
2 TWO-MAN OPERATION.

3 Q. AND THEN WHO WOULD BE BELOW
4 YOU TWO OF THAT GROUP?

5 A. RIGHT BELOW US WOULD BE WHAT
6 THE UNION WOULD REFER TO AS A SHIP BOSS,
7 AND THEY'RE ASSIGNED BY THE UNION ON A
8 DAILY BASIS. AND THAT COULD BE ONE OF
9 NINE INDIVIDUALS. THE HATCH FOREMAN
10 ACTUALLY BECOME THE SHIP BOSS DOWN IN
11 WILMINGTON.

12 Q. WHAT DO YOU MEAN BY THAT,
13 YOU MEAN THEY WORK THEIR WAY UP?

14 A. WELL, EACH GANG THERE'S A
15 BOSS, WE'LL SAY YOU HAVE A GANG AND YOU
16 HAVE A GANG AND I HAVE A GANG. WELL, ON
17 ANY GIVEN DAY I COULD, MY GANG COULD BE
18 ON THE SHIP AND I ALSO COULD BE THE SHIP
19 BOSS.

20 Q. AND IF THAT OCCURS WOULD
21 YOUR --

22 A. BUT IT WOULD ONE OF NINE
23 DIFFERENT PEOPLE.

24 Q. IF THAT OCCURS THOUGH WOULD

CLIFFORD J. LASCH

1 YOUR GANG, IF YOU WERE THE SHIP BOSS THAT
2 DAY, SOMEBODY IN YOUR GANG WOULD THEN
3 FILL IN AS THE GANG BOSS?

4 A. THAT'S CORRECT.

5 Q. A SENIOR PERSON?

6 A. YES, YES. I THINK IN FACT
7 THIS FELLOW WAS JOHN, I DON'T KNOW IF HE
8 WAS FILLING IN FOR, I'M TRYING TO THINK
9 WHO HE WORKED FOR.

10 Q. LET ME HAND YOU --

11 A. I'D HAVE TO LOOK AT THE
12 REPORT ON THAT.

13 Q. LET ME HAND YOU WHAT'S BEEN
14 MARKED AS LASCH-1 WHICH IS THE DRS
15 SUPERVISOR ACCIDENT INVESTIGATION AND
16 MAYBE THAT WILL REFRESH YOUR
17 RECOLLECTION. ALSO, MR. LASCH, I HAVE
18 WHAT ARE SOME TIME RECORDS AND WORK
19 RECORDS THAT WERE SUPPLIED BY DRS
20 PURSUANT TO SUBPOENA AND THEY MIGHT HELP
21 REFRESH YOUR RECOLLECTION. THAT'S A
22 COMPOSITE EXHIBIT OF TWO DIFFERENT TYPES
23 OF RECORDS.

24 A. YES, OKAY. HERE'S WHAT I

1 MEAN, I'M LISTED HERE AS THE SHIP
2 SUPERVISOR. TERRIN JACKSON IS
3 ACTUALLY --

4 MR. WHELAN: OFF THE RECORD.

5 (A DISCUSSION OFF THE RECORD
6 OCCURRED.)

7 THE WITNESS: BUT TERRIN IS
8 ACTUALLY BEN JACKSON'S SON, HE'S
9 THE STRAW BOSS. SO BASICALLY IF
10 JACKSON'S GANG WAS ON THAT SHIFT
11 THEN JACKSON WOULD HAVE HAD IT BUT
12 ACCORDING TO THIS IT WAS LIKE BEN
13 JACKSON WAS THE SHIP FOREMAN AND
14 TERRIN THEN BECOMES THE GANG
15 FOREMAN. SO THAT MAKES IT CLEAR
16 TO ME.

17 BY MR. WHELAN:

18 Q. OKAY.

19 A. DOES THAT EXPLAIN TO YOU?

20 Q. YES. AND THAT WOULD, CAN
21 YOU TELL FROM THAT RECORD THAT JOHN
22 TURNER WAS A MEMBER OF THE JACKSON GANG
23 FOR THAT PARTICULAR DAY?

24 A. THAT I COULDN'T TELL, NOT BY

1 REFERRING TO?

2 A. YES.

3 Q. AND CAN YOU GIVE US JUST A
4 BRIEF DESCRIPTION FROM YOUR RECOLLECTION
5 OF THE LUZON STRAIT, YOU SAID IT WAS A
6 BRAND NEW SHIP AND WHAT MADE IT DIFFERENT
7 FROM OTHER SHIPS?

8 A. WELL, IT WAS A SIDE PORT
9 DISCHARGE LOAD OPERATION ON
10 SELF-CONTAINED TRAYS THAT WOULD ELEVATOR
11 INTO THE VARIOUS DECKS. UNLIKE
12 CONVENTIONAL VESSELS WHERE YOU OPEN UP
13 THE TOP HATCH COVERS AND USE THE CRANES
14 OR UNION PURCHASE TO GAIN ACCESS TO THE
15 DECKS, DISCHARGE THE DECK THEN OPEN UP
16 THE NEXT DECK, GO DOWN, DOWN, DOWN. YOU
17 NEVER HAD TO OPEN THIS UP, IT WAS JUST A
18 SIDE DOOR WOULD OPEN UP AND THE PLATE
19 WOULD BE SUSPENDED ON WIRES AND GO DOWN
20 INTO EACH COMPARTMENT BEING A DECK, B
21 DECK, C DECK, D DECK, WITHOUT EVER HAVING
22 TO ACTUALLY SEE -- THE ONE WAY YOU COULD
23 SEE IN THE HATCH WAS TO GO DOWN INTO THE
24 HATCH. IT WAS IN FACT THEY'RE USING

CLIFFORD J. LASCH

1 THOSE VESSELS TODAY IN PHILADELPHIA. AND
2 THEY WERE PARTICULARLY I THINK MADE FOR
3 THE BANANA TRADE AND WE HAD I GUESS THE
4 SHIP WAS COMING OVER AND THEY SENT MEAT
5 ON IT.

6 Q. SO THE CARGO YOU
7 DISCHARGED --

8 A. WAS FROZEN BEEF.

9 Q. -- WAS FROZEN BEEF;
10 PALLETIZED?

11 A. YES.

12 Q. AND JUST GOING BACK, YOU HAD
13 INDICATED THAT YOU HAD STARTED WITH DRS
14 ABOUT 1997 OR SO, AND WHO WAS YOUR
15 EMPLOYER BEFORE THAT?

16 A. INDEPENDENT PIER COMPANY.

17 Q. AND HOW MANY YEARS DID YOU
18 WORK FOR INDEPENDENT?

19 A. 27; 1969 TO 1996.

20 Q. HOW DID YOU GET INVOLVED IN
21 WORKING FOR STEVEDORING COMPANIES, DID
22 YOU HAVE TRAINING OF ANY SORT BEFORE THAT
23 IN TERMS OF --

24 A. NO.

CLIFFORD J. LASCH

1 Q. -- FORMAL TRAINING OR DID
2 YOU JUST LEARN ON THE JOB WORKING FOR
3 INDEPENDENT PIER?

4 A. NO, I'M A NAVY VETERAN. I
5 CAME DOWN HERE PRIMARILY I GUESS IN THE
6 LATE SUMMER OF '69 LOOKING FOR A JOB AND
7 STARTED ON THE TERMINALS AND ON-THE-JOB
8 TRAINING MOSTLY. JUST ONE THING LED TO
9 ANOTHER AND IT WAS ONLY A PART-TIME JOB
10 AND I WOUND UP BEING HERE FOR 36 YEARS OR
11 SOMETHING.

12 Q. NOW, LOOKING AT THIS PART OF
13 COMPOSITE EXHIBIT 6 WHICH ARE THE
14 HANDWRITTEN, CAN YOU TELL US WHEN THE
15 DELAWARE RIVER STEVEDORES STARTED
16 DISCHARGE, WHAT DATE AND THEN WHAT DATES
17 WAS THE DISCHARGE COMPLETED?

18 A. IT APPEARS WE STARTED ON THE
19 SIXTH WHICH WAS A WEDNESDAY, AND WE
20 FINISHED ON THURSDAY THE -- NO, FRIDAY.

21 Q. WHAT DAY WAS THAT?

22 A. FRIDAY THE 8TH.

23 Q. NOVEMBER 8, 2002?

24 A. THAT'S CORRECT.

CLIFFORD J. LASCH

1 Q. OKAY. NOW, I'M GOING TO
2 SHOW YOU -- LET'S GO BACK FOR A SECOND.
3 IN TERMS OF YOUR JOB AS A STEVEDORE
4 SUPERVISOR DURING THOSE DAYS, HOW OFTEN
5 OR HOW MUCH TIME WOULD YOU ACTUALLY SPEND
6 ABOARD THE VESSEL?

7 A. THIS VESSEL PROBABLY MORE
8 THAN ANY, I SPENT AN INORDINATE AMOUNT OF
9 TIME BECAUSE IT WAS JUST ALL NEW TO US.
10 UP AND DOWN THE DECKS, TRYING TO WORK
11 WITH THE MATES. TO MY RECOLLECTION THERE
12 WAS A LOT OF MECHANICAL BREAKDOWNS AND
13 THINGS HERE. AND THERE WAS A LOT OF
14 CHANGING OF GEAR, TAKING THE BREAKOUT
15 CAGE OFF, BREAKING OUT CARGO, PUTTING THE
16 BREAKOUT CAGE BACK ON, OPENING DECKS. I
17 THINK I PRETTY MUCH COVERED IT ALL WITH
18 THIS REPORT WITH THE TIMEKEEPER.

19 WHAT DO YOU WANT ME TO TELL
20 YOU, 60 PERCENT, 70 PERCENT, 10 PERCENT,
21 IS THAT WHAT YOU'RE LOOKING FOR?

22 Q. YES, HOW MUCH OF YOUR DAY
23 WOULD TYPICALLY BE SPENT ABOARD THE SHIP?

24 A. I'M SUPPOSED TO BE THERE ALL

1 THE TIME, I'M EITHER --

2 Q. FOR MOST OF THE DAY OR --

3 A. IF I AM NOT ON THE VESSEL I
4 WAS IN MY CAR OR WALKING ON THE DOCK IN
5 CLOSE PROXIMITY TO THE VESSEL BETWEEN THE
6 HOURS OF SEVEN TO 12 AND ONE TO SIX.
7 VERY RARELY DID I OR DO I LEAVE THE
8 VESSEL WHEN IT'S MY RESPONSIBILITY.

9 Q. NOW YOU HAD MENTIONED
10 EARLIER THAT THERE WERE SOME BREAKDOWNS,
11 I'M LOOKING AT THE PAGE WHICH IS PART OF
12 A HANDWRITTEN PAGE, PART OF NOVEMBER 6TH,
13 EXHIBIT AND I SEE ONE BREAKDOWN AT THE
14 BOTTOM, CAGE DOWN?

15 A. GO TO THE SIXTH, HATCH
16 NUMBER ONE, IN OTHER WORDS THIS IS THE
17 WAY I WOULD HAVE DESCRIBED WHAT WE WERE
18 DOING. DISCHARGE BREAKOUT IN A DECK FROM
19 8 TO 8:15, MACHINE WITH A SPREADER, AND
20 THEN THERE WAS OVER STOKED PALLETS THAT
21 WE DID, THEN WE RIGGED THE CAGE, THEN WE
22 DISCHARGED A DECK AND THEN A CAGE BROKE
23 DOWN FROM WAS IT 10:05 TO 11:10.

24 Q. NOW, WHAT WOULD THAT MEAN

1 THE CAGE BROKE DOWN; DO YOU KNOW?

2 A. IN THIS RESPECT SOMETHING
3 MECHANICAL WENT WRONG, WHEN THE PLATE WAS
4 FLOATING DOWN IT MAY HAVE KICKED THE
5 SENSOR IN THE RAIL, OR IT WAS WEIGHTED
6 TOO MUCH TO ONE SIDE, OR JUST THERE WAS
7 SOME FAILURE ON THE SHIP, THERE WAS ALL
8 KINDS OF PANELS AND BOARDS AND EVERYTHING
9 AND THE CREW WAS STILL LEARNING HOW TO DO
10 THINGS AS WELL AS WE WERE. IT WAS JUST
11 BRAND NEW, IT WAS TOTALLY NEW. IN FACT,
12 I REMEMBER GETTING INTO SOME DEBATE WITH
13 THE CAPTAIN AT CERTAIN TIMES WHEN THE
14 VESSEL WAS BROKE DOWN AND TOLD ME HE
15 COULD DO SOMETHING IN 10 MINUTES BUT I
16 SAID IT TOOK 30 MINUTES TO DO, I SAID
17 WELL, I HAVEN'T SEEN YOU ON DECK SO MAYBE
18 YOU CAN BUT YOUR CREW CAN'T.

19 Q. OKAY. NOW LET ME SHOW YOU,
20 SWITCH EXHIBITS WITH YOU HERE, LASCH-1
21 WHICH IS THE ACCIDENT REPORT. AND FIRST
22 OF ALL, ASK YOU WHAT'S THE DATE OF THAT
23 REPORT IN THE UPPER RIGHT HAND CORNER OF
24 EXHIBIT-1?

1 A. 11/8/02.

2 Q. NOW, THE HANDWRITING ON THIS
3 REPORT, IS THAT YOURS?

4 A. THAT'S CORRECT.

5 Q. AND THAT'S YOUR SIGNATURE ON
6 THE LOWER --

7 A. THAT'S CORRECT.

8 Q. -- RIGHT HAND CORNER?

9 AND THEN IT LOOKS LIKE
10 THERE'S ANOTHER SIGNATURE, THERE'S TWO
11 SIGNATURES IN THE RIGHT HAND CORNER, WHO
12 WAS THE OTHER SIGNATURE? UNLESS THAT'S
13 YOU TWICE?

14 A. WHO'S THIS CARMELLA
15 DIPIERRO? I DON'T KNOW WHERE THAT CAME
16 FROM. THIS LOOKS TO BE, IT IS OUR POLICY
17 WHEN WE DO AN ACCIDENT REPORT THAT YOU
18 HAVE THE PERSON THAT YOU ARE SIGNING THE
19 REPORT IT, IF HE'S COGNIZANT TO SIGN, TO
20 STATE THAT WHAT YOU -- TO CONCUR WITH YOU
21 WHAT THE REPORT IS IN FACT WHAT HE'S
22 SAYING OR WHAT DID HAPPEN. SO THAT LOOKS
23 LIKE TO BE JOHN TURNER I BELIEVE

24 Q. IN THE LEFT HAND SIDE?

CLIFFORD J. LASCH

1 A. THAT'S CORRECT.

2 Q. NOW WHAT ABOUT I CAN SEE
3 YOUR SIGNATURE AND THEN IT LOOKS LIKE
4 THERE'S ANOTHER SIGNATURE NEXT TO IT ON
5 THE RIGHT HAND SIDE, OR IS THAT ALL YOUR
6 SIGNATURE?

7 A. I HAVE A BIG SIGNATURE.

8 Q. I MEAN SO THIS IS ALL ONE
9 SIGNATURE ON THE RIGHT?

10 A. IT SAYS CLIFFORD J. LASCH.
11 WHAT ARE YOU LOOKING AT?

12 Q. DOES THAT LOOK LIKE -- I
13 DON'T KNOW?

14 MR. GRUBER: DOES IT LOOK
15 LIKE CLIFFORD?

16 MR. WHELAN: IT DOES LOOK
17 LIKE CLIFFORD.

18 THE WITNESS: DOES IT LOOK
19 LIKE A BIG J? LOOKS LIKE A
20 L-A-S-C-H? THAT'S ME.

21 BY MR. WHELAN:

22 Q. THAT'S YOU, OKAY. SO THAT
23 WHOLE THING IS YOU, I JUST WANTED TO MAKE
24 SURE?

1 A. NORMALLY THE WAY I SIGN
2 THINGS IS BIG AND BOLD.

3 Q. NOW, WHEN IF YOU CAN
4 REMEMBER -- WELL FIRST OF ALL, ON THIS
5 REPORT IN THE UPPER PORTION OF IT THERE'S
6 AN INDICATION OF "TO/BY WHOM" I GUESS
7 REPORTED IT AND IT SAYS: MR. JACKSON AND
8 THEN UNDER THAT CLIFF LASCH, I GUESS IN
9 YOUR HANDWRITING. SO WAS IT MR. JACKSON
10 THAT REPORTED THE ACCIDENT TO YOU
11 INITIALLY OR DID MR. TURNER REPORT THE
12 ACCIDENT TO BOTH OF YOU?

13 A. FROM THAT I COULDN'T TELL BY
14 JUST LOOKING AT THIS WHETHER HE SAID
15 SOMETHING TO TERRIN ON THE WAY OFF THE
16 VESSEL IF IN FACT TERRIN WAS IN HIS
17 IMMEDIATE AREA BUT HE DID SEE ME AND HE
18 KNEW WHERE I WOULD BE.

19 Q. SO YOU DO REMEMBER HIM,
20 REMEMBER MR. TURNER REPORTING IT TO YOU?

21 A. OH DEFINITELY, DEFINITELY.

22 Q. AND WAS HE -- WAS THIS
23 REPORT PREPARED RIGHT AFTER HE REPORTED
24 IT TO YOU AND IN HIS PRESENCE SO HE COULD

1 SIGN IT LIKE HE DID IN THE LOWER LEFT
2 HAND CORNER?

3 A. YES. HE FIRST SPOKE TO ME
4 AT SHIP SIDE AFTER COMING OFF THE GANG
5 WAY, I WAS -- I THINK I WAS ON THE PHONE
6 WITH THE AGENT TELLING HIM WE WERE DONE
7 OR SOMETHING BUT HE WALKED UP TO ME AND
8 MADE SOME SORT OF COMMENT AND THEN SAID
9 LOOK, I HATE TO SPOIL YOUR DAY BUT I WANT
10 TO REPORT AN ACCIDENT; AND I SAID OKAY,
11 WHO; HE SAID, ME. AND I SAID WELL HOW DO
12 YOU FEEL; MY FIRST RESPONSIBILITY IS YOUR
13 HEALTH AND WELL-BEING. HE SAID WELL I'M
14 ALL RIGHT. I SAID WELL, I DON'T HAVE
15 ANYTHING WITH ME IN THE CAR WOULD YOU
16 LIKE TO COME OVER TO THE OFFICE THE
17 SHIP'S DONE. AND WE WENT AND SAT AT A
18 TABLE IN OUR OFFICE IN DELAWARE AND
19 COMPOSED THIS WHILE HE WAS SITTING THERE.

20 Q. AND SO UNDER THE DESCRIPTION
21 OF HOW THE ACCIDENT OCCURRED THAT WOULD
22 HAVE BEEN YOU WROTE DOWN WHAT HE TOLD
23 YOU, WHAT MR. TURNER TOLD YOU?

24 A. YES. BECAUSE THERE WOULD BE

1 NO WAY THAT I COULD MAKE THAT STATEMENT
2 WITHOUT HIS COLLABORATION WITH HIM.

3 Q. AND AS A RESULT OF THIS
4 ACCIDENT DID YOU EVER GO ABOARD THE SHIP
5 TO INSPECT THE AREA OF THE ACCIDENT?

6 A. NO, BUT I HAD JUST LEFT THAT
7 AREA, THERE WAS A -- THE REASON WE WERE
8 LATE ON THIS IS BECAUSE A MACHINE HAD
9 JUMPED OUT OF A TRACK DOWN IN THE HATCH,
10 AND ONE OF THE GRATINGS HAD COME UP AND A
11 TIRE BECAME LODGED IN IT AND WE WENT TO
12 LUNCH THEN WE CAME BACK AND THERE WAS --
13 WE ALL MET DOWN THERE TO SEE HOW TO GET
14 THIS TIRE BACK OUT OF THE GRATING AND
15 JOHN WAS DOWN THERE AND THERE HAD TO BE
16 AT LEAST FIVE OR SIX OTHER INDIVIDUALS.

17 Q. WHEN YOU SAY DOWN THERE,
18 WHERE?

19 A. IN D DECK. I HAD CLIMBED
20 ALL THE WAY DOWN TO A DECK, B DECK, C
21 DECK TO SEE THIS MACHINE IN THE GROOVE.

22 Q. AND THAT WOULD BE THE NUMBER
23 TWO HOLE IN D DECK?

24 A. YES. THAT'S WHERE THEY

1 FINISHED ACCORDING TO THE REPORT AND TO
2 THIS REPORT, WE FINISHED, THAT WAS THE
3 LAST GANG FINISHED IN NUMBER TWO D DECK,
4 IT LOOKED LIKE A LITTLE AFTER TWO
5 O'CLOCK.

6 Q. AND THEN WHEN YOU WENT DOWN,
7 SO YOU WENT -- HOW DID YOU GO DOWN?

8 A. THE SAME PATH THAT EVERYBODY
9 TOOK. YOU LEFT THE MAIN DECK AND WENT
10 DOWN THROUGH A HATCH COVER INTO A DECK
11 AND THEN OUT INTO THE DECK THEY FOUND
12 ANOTHER HATCH OPEN DOWN INTO B DECK AND
13 THEN ANOTHER INTO C DECK AND SO FORTH.

14 Q. SO YOU'RE ACTUALLY OUT INTO
15 THE HATCH ITSELF WHERE THE CARGO --

16 A. YES, YOU'RE ACTUALLY OUT
17 WHERE THE CARGO HAD BEEN, YES. IT
18 DOESN'T GO, I DON'T BELIEVE IT WENT ALONG
19 THE BULK HEADS AND STRAIGHT DOWN LIKE
20 MOST CONVENTIONAL SHIPS DID WHERE YOU
21 JUST KEEP CLIMBING DOWN THROUGH A HATCH
22 OPENING, YOU HAD TO COME DOWN AND THEN IT
23 WAS OFFSET, YOU HAD TO GO TO ANOTHER
24 PLACE AND THEY LIFTED THE LID AND YOU

1 CLIMBED DOWN ANOTHER LADDER AND THEN YOU
2 WALKED A LITTLE BIT MORE AND DOWN AND
3 FOUND ANOTHER LID. I JUST CLIMBED OUT OF
4 THIS, PROBABLY I GOT TO SAY MAYBE 35,
5 40 MINUTES PRIOR TO ALL THIS.

6 Q. BEFORE THE ACCIDENT?

7 A. BEFORE THE ACCIDENT I WAS
8 DOWN THERE WITH THEM.

9 Q. AND WHEN YOU WENT DOWN
10 THROUGH THE ACCESS COVER AND LADDER THAT
11 WENT FROM 2C DOWN TO 2D DID YOU
12 EXPERIENCE ANY TROUBLE?

13 A. NO, I DID NOT.

14 Q. WHEN YOU WENT DOWN WAS THAT
15 COVER FOR THAT ACCESS, FOR THAT LADDER
16 ACCESS OPEN AND SECURED IN THE OPEN
17 POSITION?

18 A. YES, ALL A, B, AND C WERE
19 ALL OPEN.

20 Q. AND SECURED?

21 A. AND SECURED. SIX OR SEVEN
22 OF US WENT DOWN AND I GUESS SEVEN OF US
23 GOT OUT COMPLETELY AND THE EIGHTH PERSON
24 DIDN'T, I DON'T KNOW WHAT HAPPENED.

1 Q. WHEN YOU WENT BACK UP YOU
2 HAD THE SAME THING, IT WAS SECURED IN THE
3 OPEN POSITION?

4 A. I EXITED THE SAME WAY I
5 ENTERED, I WENT UP IN D TO C; C TO B; B
6 TO A, A TO THE MAIN DECK.

7 Q. AND THAT ACCESS COVER
8 LEADING, THEY HAD TO GO THROUGH TO GET
9 FROM D TO C, IT WAS OPEN WHEN YOU WENT UP
10 AND SECURED IN THE OPEN POSITION?

11 A. YES. THEY WERE ALL OPEN, A,
12 B, AND C WERE ALL UP. A, B, C WERE ALL
13 UP, YES.

14 Q. AND THEY WERE ALL SECURED?

15 A. TO MY KNOWLEDGE, YES. I
16 BELIEVE THEY OPENED UP WITH AT THE BASE
17 FROM THE CLEVIS PIN IN THEM, DOWN AT THE
18 BOTTOM. BECAUSE THEY FREE STAND, THEY
19 COME RIGHT UP OUT OF THE MIDDLE OF THE
20 DECK. AND THEN THERE'S A HINGE OR
21 SOMETHING AND THERE WAS A CLEVIS PIN OR
22 SOMETHING OR SOME PIN.

23 Q. AS A STEVEDORING SUPERVISOR
24 AND SOMEONE THAT'S GONE THROUGH THESE

1 TYPES OF HATCHES MANY TIMES , DID THEY
2 SEEM UNUSUAL TO YOU IN ANY WAY?

3 A. WELL OTHER THAN THE FACT
4 THAT THEY WEREN'T STRAIGHT DOWN AND
5 USUALLY YOU SEE AN ACCESS AREA WHERE
6 YOU'RE , THEY'RE FAIRLY IN THE SAME
7 PROXIMITY WHERE YOU COULD LOOK ONE DECK
8 DOWN TO THE NEXT , THEY WERE JUST A LITTLE
9 OFFSET. YES , BECAUSE SOME OF THEM , MOST
10 OF THEM ARE UP AGAINST THE BULKHEAD WITH
11 THE PIN UP AT THE TOP WHERE YOU CAN
12 ACTUALLY SEE WHERE THEY'RE LATCHED. THIS
13 TO MY RECOLLECTION IS THEY JUST CAME UP
14 FLAT FROM THE DECK AND THEY PIN SOMEWHERE
15 LOW AND SOMETIMES I THINK THEY PUT
16 STANCHIONS AROUND THEM , THERE'S HOLES ,
17 THEY PUT A COUPLE STANCHIONS OR POLES IN ,
18 PORTABLE POLES IN.

19 Q. DO YOU REMEMBER THAT ON THIS
20 PARTICULAR DAY?

21 A. WHETHER THEY HAD THE POLE
22 UP?

23 Q. YES.

24 A. I THINK IT WAS JUST A LID

1 BUT I'M NOT SURE. IT WAS JUST THE LID
2 WAS PULLED UP AND ANCHORED, I MEAN, YOU
3 HAVE TO ACTUALLY PHYSICALLY GRAB THAT TO
4 PUT YOUR FEET ON THE LADDER TO GO DOWN, I
5 THINK THERE'S A HAND HOLD.

6 Q. WHEN YOU SAY GRAB THAT YOU
7 MEAN THE LID?

8 A. THE LID, THE OPEN LID. IF
9 IT'S OPEN IT'S UP LIKE THIS. YOU HAVE TO
10 ACTUALLY HOLD ONTO THIS TO GET YOUR FEET
11 SET TO GO DOWN INTO THE --

12 Q. TO THE LID?

13 A. -- TO THE COMPARTMENT YOU
14 WANT TO BE IN.

15 Q. SO WHEN YOU DID THAT ON THIS
16 PARTICULAR LID LEADING FROM C TO D, GOING
17 UP AND DOWN, YOU HAD NO PROBLEM DOING
18 THAT?

19 A. NO. SEVEN OR EIGHT OF US
20 WENT DOWN AND SEVEN OR EIGHT OF US COME
21 UP. SEVEN GOT OUT AND THE EIGHTH ONE
22 DIDN'T.

23 Q. AND WHEN YOU AS A
24 STEVEDORING SUPERVISOR DOING THIS MANY

1 TIMES BEFORE ON OTHER SHIPS AND
2 EVERYTHING, IS IT IMPORTANT TO BE SURE
3 THAT THE LIDS ARE OPEN AND SECURED BEFORE
4 YOUR MEN USE THEM?

5 A. YES. IT'S -- IT'S THE
6 RESPONSIBILITY OF THE SHIP BOSS AND THE
7 HATCH BOSS AND THE SHIP SUPERINTENDENT TO
8 MAKE SURE THAT EVERYTHING IS DONE SAFELY.

9 Q. AND IS THERE ANY REGULATION
10 THAT YOU'RE AWARE OF THAT REQUIRES OR
11 SAFETY POLICY OR ANYTHING THAT REQUIRES
12 TWO WAYS TO ACCESS A HATCH?

13 A. TWO WAYS?

14 Q. RIGHT. IN OTHER WORDS, IS
15 IT -- WELL, STRIKE THAT QUESTION.

16 IN YOUR EXPERIENCE IS THERE
17 TYPICALLY TWO ACCESSES TO SHIP'S CARGO
18 HOLES?

19 A. SOME COULD BE, LIKE ON A
20 REFRIGERATED VESSEL YOU COULD GO DOWN
21 THROUGH THE BACK SIDE OF THE
22 REFRIGERATION COMPARTMENT AND COME
23 THROUGH A DOOR. AND ALSO ENTER FROM THE
24 OTHER END, YES, MAYBE PORT AND STARBOARD

CLIFFORD J. LASCH

1 -- FORWARD AND AFT.

2 Q. FORWARD AND AFT.

3 DO YOU KNOW WHETHER THAT
4 EXISTED ON THIS PARTICULAR SHIP?

5 A. NO, I THINK WE HAD TO GO
6 DOWN AT -- IT WAS CLOSE TO WHERE THE
7 ELEVATOR ENTRIES WERE TO EACH HATCH, ONE
8 WOULD HAVE BEEN AFT, TWO WOULD HAVE BEEN
9 FORWARD, THREE WOULD HAVE BEEN AFT, FOUR
10 WOULD HAVE BEEN FORWARD I BELIEVE. I
11 WASN'T AWARE OF ANY OTHER ENTRY OTHER
12 THAN OR EXIT OR IF THERE WAS TWO SETS OF
13 ENTRANCES OR EXITS TO THAT VESSEL.

14 Q. SO YOU DON'T KNOW?

15 A. NO.

16 Q. YOU JUST KNOW THE ONE THAT
17 YOU DESCRIBED ALREADY?

18 A. THE ONE WE USED, YES.

19 Q. NOW LOOKING AT YOUR, IT SAYS
20 AT THE BOTTOM OF EXHIBIT LASCH-1,
21 SUPERVISOR'S COMMENTS AND THEN IN
22 PARENTHESES, WHY DID ACCIDENT OCCUR AND
23 WHAT SHOULD BE DONE TO PREVENT THE
24 RECURRENCE. YOU STATE: SEEMS AS THOUGH

1 SECURING PIN WORKED OUT OF THE SLOT.
2 SHOULD BE INSPECTED BEFORE ENTERING DECK.

3 A. ACTUALLY YOU COULD SEE IT
4 BEFORE YOU WENT DOWN, BUT YOU COULDN'T
5 SEE IT COMING OUT PROBABLY. AGAIN, I
6 THINK IT WAS A SITUATION WHERE YOU JUST
7 LIFTED THE LID UP AND IT WAS A PIN OR TWO
8 PINS WERE HOLDING THE LID IN THE UPWARD
9 POSITION AT THE BASE. IT WAS NOTHING AT
10 THE TOP. I'VE ACTUALLY SEEN, I'VE SEEN
11 THEM WHEN THEY'VE OPENED UP AND THEY'VE
12 HAD AN ARM COME DOWN ON THE SIDE THAT
13 WOULD BE LIKE SHACKLED INTO THE SIDE TO
14 HOLD THAT LID UP, YOU CAN VISIBLY SEE
15 THAT THERE'S -- BUT THIS I BELIEVE IT WAS
16 DOWN IN BACK THERE.

17 Q. OKAY.

18 A. AND MY OWN PRACTICE WHEN I'M
19 GOING DOWN OR WHEN I WAS GOING DOWN THIS
20 WAS TO STAND IN FRONT OF IT PULLING IT
21 (INDICATING) YOU KNOW, MAKE SURE IT WAS
22 LOCKED BEFORE I WENT DOWN IN.

23 Q. AND WOULD YOU DO THE SAME ON
24 THE WAY UP?

CLIFFORD J. LASCH

1 WHEN IT HAPPENED, HE CAME AND TOLD ME.
2 WE DID THIS PROBABLY 15 MINUTES LATER IN
3 MY OFFICE AND WENT THROUGH IT.

4 Q. DID YOU SPEAK TO SEAN BRADY
5 AND ANTHONY FRAZER?

6 A. THEY WERE GONE ALREADY.

7 Q. DID ANYONE EVER TELL YOU
8 THAT THE SECURING PIN OR THE SECURING
9 DEVICE WAS BROKEN?

10 A. NO.

11 Q. IF THEY HAD TOLD YOU THAT
12 YOU WOULD HAVE PUT IT IN YOUR REPORT?

13 A. IF THEY TOLD ME IT WAS BROKE
14 --

15 Q. IT WAS BROKEN, THAT IT
16 BROKEN OFF OR WAS DISTORTED OR HAD
17 SOME --

18 A. YOU MEAN IF TURNER WOULD
19 HAVE TOLD ME THAT?

20 Q. OR WHOEVER, YES. I MEAN
21 TURNER IS THE ONLY ONE YOUR TALKED TO
22 FROM WHAT I UNDERSTAND?

23 A. YES, THAT'S THE ONLY ONE I
24 DID TALK TO.

1 Q. SO IF HE HAD TOLD YOU THAT
2 IT WAS BROKEN YOU WOULD HAVE PUT THAT IN
3 YOUR REPORT?

4 A. I BELIEVE I WOULD HAVE. I
5 MEAN, THAT'S WHY WE SIGN IT. JOHN IS
6 THIS ALL RIGHT AND YES, OKAY, THAT'S WHAT
7 HAPPENED. IF HE TOLD ME AND IT WASN'T
8 THERE I'M SURE HE WOULD HAVE BROUGHT IT
9 TO MY ATTENTION BEFORE HE SIGNED IT.

10 Q. NOW, WHAT TIME ACCORDING TO
11 YOUR REPORT DID MR. TURNER TELL YOU THAT
12 THE ACCIDENT HAD OCCURRED?

13 A. WELL, AT RIGHT PRIOR TO 2:50
14 SO THAT'S WHEN HE REPORTED IT TO ME WAS
15 2:50 IS WHAT I PUT DOWN. IT COULD HAVE
16 BEEN 2:30, THE ACTUAL OCCURRENCE, BUT IT
17 WASN'T -- IT HAD TO BE SOMEWHERE BETWEEN
18 TWO AND THREE O'CLOCK BECAUSE THAT'S WHEN
19 WE FINISHED THE SHIP.

20 Q. CAN YOU TELL FROM MAYBE IF
21 YOU CAN LOOK AT YOUR COMPOSITE EXHIBIT 2
22 FOR THAT DAY, AND WHEN DID YOU COME BACK
23 FROM LUNCH AND START WORKING IN 2D AND
24 THEN WHEN DID YOU FINISH UP 2D ACCORDING

1 WENT BACK UP.

2 Q. AND DID YOU, ARE YOU AWARE
3 OF ANYONE OTHER THAN YOURSELF FROM DRS
4 GOING ABOARD TO INVESTIGATE THE ACCIDENT?

5 A. NO, BECAUSE I BELIEVE THEY
6 WERE SAILING RIGHT AWAY.

7 Q. ARE YOU AWARE OF ANY
8 PHOTOGRAPHS OF THE ACCIDENT SCENE TAKEN
9 BY DRS OR ANY LONGSHOREMEN OR ANYONE
10 ELSE?

11 A. NO, I'M NOT. NO, I DIDN'T
12 TAKE ANY AND I DON'T THINK THE SHIP WAS
13 THERE LONG ENOUGH. YOU COULD GET THOSE
14 RECORDS AND SEE WHEN SHE ACTUALLY SAILED.
15 I THINK SHE ACTUALLY SAILED WHEN WE WERE
16 DOING THE REPORT SO, I DIDN'T TAKE ANY.
17 IN FACT, WE USED TO HAVE A PORTION HERE
18 WHERE WERE ANY PICTURES TAKEN, MAYBE
19 THAT'S ON THE NEWER REPORTS. NO, I
20 DIDN'T TAKE ANY, I DON'T KNOW OF ANYBODY
21 ELSE.

22 Q. IN THIS PARTICULAR SHIP WHEN
23 YOU WERE WALKING AROUND AND SO FORTH, DID
24 IT APPEAR TO BE WELL-MAINTAINED TO YOU?

1 A. YES, IT WAS BRAND NEW. IT
2 WAS BRAND NEW, MAIDEN VOYAGE.

3 Q. SO IT LOOKED, EVERYTHING
4 LOOKED NEW TO YOU?

5 A. VERY NEW. TOO NEW.

6 Q. OTHER THAN THAT TIME YOU
7 DESCRIBED OR YOU WENT DOWN SOMETIME AFTER
8 LUNCH ON THE DATE OF THE ACCIDENT DOWN TO
9 2D AND THEN BACK UP THROUGH THE VARIOUS
10 LADDERS AND ACCESS, HAD YOU EVER GONE
11 DOWN IN TO D DECK BEFORE THAT?

12 A. NO, I THINK THAT WAS MY
13 FIRST. I HAD BEEN DOWN IN THE OTHER
14 DECKS WHILE WE WERE WORKING THE SHIPS TO
15 GO DOWN AND SEE HOW THINGS WORKED, HOW
16 THEY PLUGGED THINGS IN AND IT'S UNIQUE
17 BECAUSE YOU CAN'T SEE, THE ELEVATORS
18 CAN'T BE OPERATED TOPSIDE UNLESS SOMEBODY
19 PUSHES A BUTTON BELOW BECAUSE THE SIGHT
20 OF VISION IS VERY BAD THERE.

21 Q. WHEN YOU WENT DOWN AND THEN
22 BACK UP SHORTLY AFTER LUNCH ON
23 NOVEMBER 8TH, FROM DOWN INTO D2 AND BACK
24 UP THROUGH THAT ACCESS WAY AT THE 2C

1 LEVEL, DID YOU NOTICE WHETHER THE
2 SECURING DEVICE OR ANYTHING RELATED TO
3 THAT ACCESS WAS BROKEN?

4 A. NO, I DID NOT.

5 Q. DID IT APPEAR TO BE IN GOOD
6 CONDITION TO YOU SO FAR AS YOU COULD
7 TELL?

8 A. WELL AS I SAID, MY PROCEDURE
9 WOULD BE TO STAND THERE AND PULL ON IT
10 (INDICATING) AND IF IT'S OKAY I WENT
11 DOWN. I DIDN'T ACTUALLY LOOK TO SEE IF
12 THERE WAS SOMETHING AMUCK WITH IT THAT IF
13 WHEN I SHOOK IT IT DID SOMETHING IRRATIC
14 I WOULD HAVE BUT I SHOOK IT AND WENT DOWN
15 ON EACH LEVEL AND OUT AT EACH LEVEL.

16 Q. AND YOU WERE SATISFIED
17 THAT --

18 A. I WAS, YES.

19 Q. OKAY. DID YOU DRIVE MR.
20 TURNER TO GET MEDICAL TREATMENT OR DID HE
21 GO ON HIS OWN?

22 A. THAT'S ANOTHER FUNNY STORY.
23 NORMALLY I WOULDN'T EVEN HAVE DONE THIS
24 REPORT, WE USUALLY HAD SOMEONE ELSE DO

1 REPORT.

2 Q. YOU'RE REFERRING TO LASCH-4?

3 A. LASCH-4 WILL ALSO TELL YOU
4 THAT THERE'S CARGO ON THERE FOR CORPUS
5 CHRISTI AND PORT EVERGLADES.

6 Q. LET'S JUST CONCENTRATE ON
7 LASCH-5?

8 A. LASCH-5 WILL ALSO INDICATE
9 TO THE TRAINED EYE WHERE THE CARGO IS BUT
10 I JUST WANTED TO MAKE SURE THAT I WAS
11 READING IT RIGHT WHEN IT WENT BACK TO
12 LASCH-4.

13 MR. GRUBER: CAN I JUST SEE
14 LASCH-5 PLEASE FOR A MINUTE.

15 THE WITNESS: THIS WOULD
16 INDICATE PORT EVERGLADES AND THEN
17 THERE WOULD BE CORPUS CHRISTI
18 WOULD BE IN ONE AND THREE.

19 BY MR. GRUBER:

20 Q. SO IF WE JUST CONCENTRATE ON
21 LASCH NUMBER 2 AND PARTICULARLY THE C AND
22 D LEVELS, DO I UNDERSTAND THAT PALLETS OF
23 FROZEN MEAT WERE LOADED INTO THE C AND D
24 LEVELS OF THE NUMBER TWO HATCH IN

1 AUSTRALIA?

2 A. YES.

3 Q. YES?

4 A. YES, THAT'S CORRECT.

5 Q. AND SO FAR AS YOU CAN TELL
6 WAS THERE ANY OTHER ACTIVITY IN THE C AND
7 D LEVELS OF THE NUMBER TWO HATCH BETWEEN
8 AUSTRALIA AND THE PORT OF WILMINGTON? IN
9 OTHER WORDS, WHEN THE SHIP STOPPED AT
10 PORT EVERGLADES, WHEN IT CALLED AT CORPUS
11 CHRISTI WAS THERE ANY ACTIVITY IN THE C
12 OR D LEVEL OF THE NUMBER TWO HATCH?

13 A. NO, THIS WOULD NOT INDICATE
14 THAT AT ALL.

15 Q. OKAY. NOW --

16 A. IN FACT, THIS VESSEL LOADED
17 IN THREE OR FOUR DIFFERENT PORTS IN
18 AUSTRALIA IN NUMBER TWO HATCH, THEY WERE
19 IN TOWNSVILLE, PORT ALMA, I FORGET WHAT
20 THE CODING WAS FOR THAT.

21 Q. PARDON ME?

22 A. THERE'S DIFFERENT CODING
23 HERE, ACTUALLY ONE PORT TOWNSVILLE FOR 2C
24 -- OR 2D, THAT'S ALL TOWNSVILLE. 2C WAS

1 A COMPOSITE LOADING, THEY HAD LOADED
2 CARGO THERE FROM PORT ALMA. LOOKS LIKE
3 TWO DIFFERENT PORTS AT LEAST, BUT OFF OF
4 THE DISCHARGE IN WILMINGTON.

5 Q. BUT WITH RESPECT TO 2D?

6 A. 2D WAS ALL LOADED AT ONE
7 PORT, DISCHARGED AT ONE PORT.

8 Q. IT WAS ALL LOADED AT, I'M
9 SORRY, PORT ALMA DID YOU SAY?

10 A. IT LOOKS LIKE TOWNSVILLE.

11 Q. TOWNSVILLE?

12 A. YES.

13 Q. NOW, TO REVERSING THE
14 PROCESS, YOU'VE TOLD US ABOUT DISCHARGING
15 THE CARGO; LOADING CARGO, LOADING IT INTO
16 THE D HATCH OF NUMBER TWO, WHAT WOULD THE
17 PROCESS BE, DO YOU KNOW?

18 A. WITH THIS PARTICULAR VESSEL
19 YOU WOULD HAVE AN EMPTY SHIP, YOU WOULD
20 SEND IN MACHINES DOWN THE ELEVATOR SHAFT,
21 YOU WOULD POSITION THE MACHINES OFF OF
22 THE ELEVATOR, SEND THE ELEVATOR BACK OUT
23 TO THE DOCK, PICK UP THE CARGO, BRING IT
24 UP THE ELEVATOR, BACK OVER THE VESSEL,

CLIFFORD J. LASCH

1 DOWN INTO THE D DECK, FORKLIFTS WOULD
2 TAKE IT OFF AND RUN IT INTO A STOW POINT
3 IN HATCH NUMBER TWO. YOU WOULD BE
4 STOWING FORWARD TO AFT, THE ELEVATOR
5 WOULD BE IN THE FORWARD END STOWING THE
6 CARGO IN THE AFT AND ACROSS TO KEEP
7 WORKING IT OUT UNTIL IT CAME BACK TO THE
8 ELEVATOR.

9 Q. AND OBVIOUSLY LONGSHOREMEN
10 WOULD HAVE HAD TO GONE INTO THE D HATCH
11 -- INTO THE, EXCUSE ME, THE D LEVEL AT
12 THE NUMBER TWO HATCH IN ORDER TO OPERATE
13 THOSE FORKLIFTS AND STOW THE CARGO?

14 A. THEY WOULD HAVE HAD TO GO
15 DOWN THROUGH A DECK, B DECK, C DECK, TO
16 GET INTO THAT LEVEL, YES.

17 Q. THE SAME WAY YOU DID?

18 A. YES.

19 Q. THEN PRESUMABLY THEY WOULD
20 HAVE HAD TO GO OUT OF THE HATCH AND WHEN
21 THEY COMPLETED STOWING THE CARGO IN THE D
22 LEVEL THEY WOULD HAVE GONE OUT THE SAME
23 WAY YOU DID?

24 A. YES.

CLIFFORD J. LASCH

1 MR. WHELAN: OBJECT TO THE
2 FORM OF THE QUESTION. YOU CAN
3 ANSWER.

4 THE WITNESS: PARDON ME?

5 MR. WHELAN: I'M OBJECTING
6 TO THE FORM OF THE QUESTION BUT
7 YOU CAN ANSWER, I'M JUST PUTTING
8 IT ON THE RECORD.

9 THE WITNESS: THEY WOULD
10 HAVE HAD TO GET OUT THE SAME WAY.
11 IN OTHER WORDS, ONCE THEY WERE
12 FINISHED D DECK THEY WOULD HAVE TO
13 COME OUT, YOU KNOW -- THAT'S
14 INTERESTING.

15 BY MR. GRUBER:

16 Q. THAT THEY COULD HAVE COME
17 OUT THE ELEVATOR?

18 A. THEY COULD HAVE COME UP THE
19 ELEVATOR, YES.

20 Q. THEN OBVIOUSLY YOU HAVE NO
21 WAY --

22 A. I WOULDN'T GO DOWN THE
23 ELEVATOR BUT THEY COULD HAVE CAME UP THE
24 ELEVATOR. IN FACT, WE -- WE HAVE TO GO

CLIFFORD J. LASCH

1 IN THE LEVEL FROM AT LEAST ONE LEVEL DOWN
2 BECAUSE IT WAS ALL, YES, THEY WOULD HAVE
3 TO -- THEY COULD HAVE COME UP THE
4 ELEVATOR, THAT MAY HAVE EVEN BEEN
5 COVERED.

6 Q. THAT WAS MY NEXT QUESTION?

7 A. THAT COULD HAVE BEEN
8 COVERED. IN OTHER WORDS, WHERE YOU WOULD
9 HAVE HAD TO COME UP FROM D TO C MAY HAVE
10 BEEN COVERED AND THEY WOULD HAVE HAD TO
11 COME UP THE ELEVATOR TO GET TO C
12 PROBABLY. THAT WOULD BE MY RECOLLECTION.

13 Q. IN ORDER TO STOW CARGO AT
14 THE C LEVEL IN THE NUMBER TWO HATCH, THAT
15 HATCH LID THAT WE'VE BEEN TALKING ABOUT
16 WHERE YOU WOULD COME UP OUT OF THE D
17 LEVEL INTO THE C LEVEL, WOULD HAVE TO BE
18 CLOSED?

19 A. OH, YES.

20 Q. AND THERE WOULD BE A PLATE
21 PUT OVER THAT, WOULDN'T THERE?

22 A. THERE WOULD BE. I DON'T
23 KNOW IF IT'S A PLATE OR IF IT'S JUST PART
24 OF THE DECK.

CLIFFORD J. LASCH

1 MY KNOWLEDGE WITH DRS AS A
2 SUPERINTENDENT, DOESN'T HOLD AN OFFICE
3 POSITION BUT HE'S STILL AN ILA EITHER
4 FOREMAN OR ASSISTANT FOREMAN IN THE PETTY
5 GANG.

6 MR. GRUBER: PETTY GANG.

7 THE WITNESS: HIS FATHER IS
8 BEN PETTY. AS I SAID, I LEFT
9 THERE ALMOST A YEAR AND A HALF AGO
10 AND I HAVEN'T HAD MUCH
11 CONVERSATION WITH GARY OR ANYONE
12 ELSE DOWN THERE. AND THIS IS THE
13 FIRST TIME I'VE BEEN QUESTIONED
14 ABOUT THIS PARTICULAR CASE BY YOU
15 TWO GENTLEMEN OR WHEN YOU
16 (INDICATING) MAYBE FIVE WEEKS AGO
17 WHEN YOU CALLED.

18 BY MR. WHELAN:

19 Q. I JUST HAVE ONE OTHER
20 QUESTION. DID YOU AT ANY TIME EVER
21 REPORT THIS ACCIDENT TO THE SHIP, TO THE
22 CAPTAIN OR THE CREW OR ANYONE ABOARD THE
23 SHIP?

24 A. NO. FROM MY RECOLLECTION IT

CLIFFORD J. LASCH

1 WAS GONE , BY THE TIME I TOOK CARE OF JOHN
2 TURNER BACK AT THE OFFICE , DID THE
3 REPORT , GOT HIM TO THE HOSPITAL. AS I
4 SAY , IF THERE WAS SOMEONE ELSE THERE , WE
5 USED TO HAVE A GUY BY THE NAME OF STEVE
6 JONES WHO USED TO DO THESE FOR US AND RUN
7 THEM TO THE HOSPITAL AND ALL IF WE WERE
8 BUSY BUT I DIDN'T NEED HIM THAT DAY , I
9 WASN'T BUSY SO I TOOK HIM. BUT I BELIEVE
10 BY THE TIME WE EVEN LEFT FOR THE HOSPITAL
11 THE SHIP HAD SAILED .

12 MR. WHELAN: OKAY. THAT'S

13 ALL I HAVE. THANKS .

14 MR. GRUBER: THANKS .

15 (WITNESS EXCUSED.)

16 (DEPOSITION CONCLUDED AT

17 APPROXIMATELY 11:20 A.M.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOHN TURNER)
) CIVIL ACTION
vs.)
) NO. 04-936 (JJF)
B.V. SHIPPING COMPANY)
LUZON STRAIT (GRONINGEN))

ORAL DEPOSITION

CAPTAIN MARK ROBERT JANSEN

June 16, 2005

ORAL DEPOSITION OF CAPTAIN MARK ROBERT JANSEN,
produced as a witness at the instance of the
Plaintiff and duly sworn, was taken in the
above-styled and numbered cause on the 16th day of
June, 2005, from 11:32 a.m. to 2:51 p.m., before
Michelle Hartman-Solari, Certified Shorthand Reporter
and Registered Professional Reporter, reported by
computerized stenotype machine at the offices of
Motel Schiphol A4, Rijksweg A4 No. 3, 2132 MA
Hoofddorp, The Netherlands, pursuant to the Federal
Rules of Civil Procedure and the provisions stated on
the record or attached hereto.

EXHIBIT

5

tabbles

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<p>1 INDEX</p> <p>2 PAGE</p> <p>3 CAPTAIN MARK ROBERT JANSEN</p> <p>4 Examination by Mr. Gruber 5</p> <p>5 Examination by Mr. Whelan 100</p> <p>6 Signature Page 109</p> <p>7 Court Reporter's Certificate 110</p> <p>8</p> <p>9 EXHIBITS</p> <p>10 EXHIBIT DESCRIPTION PAGE</p> <p>11 P-FF 19 Photographs of the forward 11</p> <p>12 hatch lid</p> <p>13</p> <p>14 P-CC Photographs of the aft hatch 27</p> <p>15 lid</p> <p>16 P-GG Report of Safety Committee 27</p> <p>17 meeting of November 30, 2003</p> <p>18</p> <p>19 P-EE Luzon Strait Maintenance 85</p> <p>20 Records for October 2002 -</p> <p>21 November 2002</p> <p>22</p> <p>23 P-8 Large General Arrangement Plan 52</p> <p>24</p> <p>25 P-24 Drawing 0409-51 New Loading 11</p> <p>Device</p> <p>17 P-39 Book entitled "Safety and 13</p> <p>18 Health in Dock Work"</p> <p>19</p> <p>20 P-43 Luzon Strait Maintenance 96</p> <p>21 Records for September 2002</p> <p>22 P-44 Inspection Report dated 60</p> <p>23 November 8, 2002</p> <p>24</p> <p>25 P-45 Inspection Report dated June 85</p> <p>18, 2003</p>	<p>1 MR. WHELAN: We are going to have the</p> <p>2 same stipulation about swearing the witness as we</p> <p>3 have had for all of the depositions.</p> <p>4 Correct, Mr. Gruber?</p> <p>5 MR. GRUBER: Correct, same</p> <p>6 stipulations.</p> <p>7 MR. WHELAN: And also on all of the</p> <p>8 depositions, the same stipulation about the federal</p> <p>9 rules that Mr. Gruber recited at the first</p> <p>10 deposition, correct?</p> <p>11 MR. GRUBER: Correct.</p> <p>12 CAPTAIN MARK ROBERT JANSEN,</p> <p>13 having been first duly sworn, testified as follows:</p> <p>14 EXAMINATION</p> <p>15 Q. (BY MR. GRUBER): Your full name, sir?</p> <p>16 A. Mark Robert Jansen.</p> <p>17 Q. Mr. Jansen, you sat were -- you sat through</p> <p>18 the deposition of Mr. Borst earlier and the</p> <p>19 depositions of the captain and the chief engineer</p> <p>20 yesterday, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And you heard the information or</p> <p>23 instructions I gave each of those witnesses at the</p> <p>24 beginning to each of their testimony?</p> <p>25 A. Correct.</p>

6

1 Q. I won't bother to repeat it. You
2 understand it?
3 A. That's fine with me.
4 Q. Okay. What is your position at the present
5 time with Seatrade Groningen B.V.?
6 A. I'm manager of the operations department.
7 Q. Was that your position in August of 2002?
8 A. No.
9 Q. What was your position at that time?
10 A. I was technical superintendent.
11 Q. And when did you first become technical
12 superintendent at Seatrade?
13 A. That was -- let me review -- in 2000,
14 somewhere mid-2000. Sorry, I cannot recall exactly.
15 Q. When did you first become employed by
16 Seatrade?
17 A. In 2000.
18 Q. Was that your first job with them,
19 technical superintendent?
20 A. No. I have been for -- a couple of months
21 I worked for the crewing department and the QA
22 department.
23 Q. Quality assurance?
24 A. Yes, correct.
25 Q. Okay. When were you born?

7

1 A. 31st of March, 1966.
2 Q. And what's your highest level of education?
3 A. I graduated from Hogere Zeevaartschool
4 college in Amsterdam.
5 Q. And what year was that?
6 A. 1986.
7 Q. And did you get some type of degree?
8 A. Yeah. I got my master's license in --
9 after the -- during the practical range on board in
10 1995, so --
11 Q. Okay. And so you haven't -- aside from the
12 maritime --
13 A. Uh-huh.
14 Q. -- university, you haven't gotten any
15 separate degrees?
16 A. No, no.
17 Q. And over the years between 1986 and the
18 year 2000 --
19 A. Yeah.
20 Q. -- did you have experience sailing as a
21 licensed officer aboard ship?
22 A. Yes, correct.
23 Q. And that included sailing as a master?
24 A. Correct.
25 Q. What type of ships did you serve on as

8

1 master, the types of ships?
2 A. Reefer ships.
3 Q. Did you serve aboard any ships -- as
4 master, did you serve aboard any ships managed by
5 Seatrade?
6 A. Yes, correct.
7 Q. Were they all managed by Seatrade?
8 A. Yes, correct. As master?
9 Q. Yes, as master.
10 Those ships on which you served as
11 master had access hatches that were used by the
12 ship's crew and by longshoremen going in and out of
13 the cargo holds?
14 A. Yes.
15 Q. That's common on reefer ships, obviously?
16 A. That's common, correct.
17 Q. Did those ships have access ways located in
18 the forward and after end of each hatch?
19 A. Yeah.
20 Q. Did those ships or did any of those
21 ships -- I mean -- let me rephrase the question.
22 Did any of those ships have a
23 configuration for the access hatches at the forward
24 end of the hatches similar to the ones we have seen
25 for the LUZON STRAIT?

9

1 A. Yeah. It's -- we have different types of
2 access hatches, but it's a common type. I have seen
3 so many hatches in my seagoing career, and I cannot
4 recall exactly which ships, but yeah.
5 MR. WHELAN: Stan, I mean, are you
6 asking the location?
7 MR. GRUBER: Well, that's what I'm
8 going to do. I'm going to clarify. I'm going to
9 clarify. I think that's fair.
10 Q. (BY MR. GRUBER): I really am talking about
11 the location. That is a hatch lid that basically
12 opens up out in the open in the hatch, as opposed to
13 being next to a stanchion or a bulkhead.
14 A. Yeah.
15 MR. WHELAN: Yeah?
16 THE WITNESS: Well, I believe so. I
17 mean, once again, I cannot recall exactly a
18 comparable, but yes, that's not uncommon.
19 Q. (BY MR. GRUBER): The situation with the
20 hatch lid in this case that we have been talking
21 about, that is the securing device being the
22 hook-and-eye that we have seen and the basic handhold
23 being the hatch lid itself --
24 A. Uh-huh.
25 Q. -- did you serve on ships as master where

<p>1 there were identical situations?</p> <p>2 A. I believe so, yes.</p> <p>3 Q. Did you serve on ships as master for</p> <p>4 Seatrade, whether there were -- whether -- I'm</p> <p>5 sorry -- where there were different types of securing</p> <p>6 devices used for these types of hatch lids, other</p> <p>7 than a hook-and-eye arrangement?</p> <p>8 A. There are various types of locking devices</p> <p>9 for hatch lids. We call them securing devices. And</p> <p>10 yes, I have experienced various types.</p> <p>11 Q. Besides the hook-and-eye device, what other</p> <p>12 devices are you familiar with?</p> <p>13 A. You have the -- the pin device, which is</p> <p>14 actually an eye situated on the hatch lid, an eye</p> <p>15 situated on the coaming of the hatch. So when it's</p> <p>16 in an open position, you put a pin in it. The same</p> <p>17 like Chief Engineer Balvert pointed out yesterday.</p> <p>18 Q. Okay.</p> <p>19 A. Then there is this kind of lifting hook</p> <p>20 which is falling down when the lid is coming in, so</p> <p>21 it's like a sliding hook. This type -- and this type</p> <p>22 just by the head is what I can recall.</p> <p>23 Q. And the --</p> <p>24 MR. WHELAN: And "this type," you mean</p> <p>25 hook-and-eye?</p>	<p>10</p> <p>1 the question's clear. The question's about the</p> <p>2 handhold, not the locking device. Do you understand</p> <p>3 that?</p> <p>4 THE WITNESS: Yeah.</p> <p>5 MR. WHELAN: Okay.</p> <p>6 THE WITNESS: Yeah, I have seen that.</p> <p>7 Q. (BY MR. GRUBER): Okay. For your job as</p> <p>8 technical superintendent, did you receive any</p> <p>9 additional specialized training of any kind, other</p> <p>10 than the experience that you already had and the</p> <p>11 education that you already had?</p> <p>12 A. Of course, your initial period as a</p> <p>13 superintendent is in close surveillance of the</p> <p>14 technical director, who was by that time my direct</p> <p>15 boss. And he will actually train you on the job as</p> <p>16 we used to say, so he's guiding you through this</p> <p>17 initial period of time where the vessel's -- where</p> <p>18 you're responsible for. And he is training you as</p> <p>19 far as required to make sure that you are ready to</p> <p>20 perform your job and responsibilities as required.</p> <p>21 Q. That training, did it involve becoming</p> <p>22 familiar with any written documents or authorities of</p> <p>23 any kind?</p> <p>24 A. Part of the quality manual, yeah.</p> <p>25 Q. The quality assurance manuals --</p>
<p>11</p> <p>1 THE WITNESS: The hook-and-eye device,</p> <p>2 yeah.</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>13</p> <p>1 A. Yeah.</p> <p>2 Q. -- that we have been referring to?</p> <p>3 A. Yeah.</p> <p>4 Q. How about the ISM code?</p> <p>5 A. The quality assurance manual is based for a</p> <p>6 good part on the ISM code.</p> <p>7 Q. Any other international standards or</p> <p>8 authorities that you were required to become familiar</p> <p>9 with?</p> <p>10 A. No, not in particular.</p> <p>11 Q. Okay. For example, the ILO standard</p> <p>12 entitled, "Safety and Health in Dock Work," do you</p> <p>13 have any familiarity with it?</p> <p>14 MR. WHELAN: P-39.</p> <p>15 THE WITNESS: I know what the ILO</p> <p>16 means, but we are not familiar with these kinds of</p> <p>17 books, and I think it's mostly related to dock</p> <p>18 workers and stevedores, and not really to seagoing</p> <p>19 personnel or crew.</p> <p>20 Q. (BY MR. GRUBER): As technical</p> <p>21 superintendent, were you assigned to a specific</p> <p>22 number of ships?</p> <p>23 A. Correct.</p> <p>24 Q. How many ships? Well, let me -- I'm sorry.</p> <p>25 Let me withdraw that.</p>

<p>1 As of August 2002 --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- how many ships were you assigned to?</p> <p>4 A. Six.</p> <p>5 MR. WHELAN: Do you want him to say</p> <p>6 the names?</p> <p>7 THE WITNESS: Sorry, you said</p> <p>8 August 2002, huh?</p> <p>9 Q. (BY MR. GRUBER): Yes.</p> <p>10 A. Five.</p> <p>11 Q. Five ships?</p> <p>12 A. Yes.</p> <p>13 Q. Did the LUZON STRAIT make it six?</p> <p>14 A. Not in August.</p> <p>15 Q. Okay. When did you become assigned to the</p> <p>16 LUZON STRAIT?</p> <p>17 A. I believe that was in September.</p> <p>18 Q. And that made it six?</p> <p>19 A. Yeah.</p> <p>20 Q. They were all reefer ships, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And there were other technical</p> <p>23 superintendents employed by Seatrade at that time who</p> <p>24 were assigned to different ships?</p> <p>25 A. Correct.</p>	<p>14</p> <p>1 STRAIT?</p> <p>2 A. Can you come again?</p> <p>3 Q. Yeah. When you became manager of</p> <p>4 operations --</p> <p>5 A. Yeah.</p> <p>6 Q. -- in 2003, did you retain any -- or keep</p> <p>7 any responsibility, direct responsibility for the</p> <p>8 LUZON STRAIT?</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>15</p> <p>1 Q. I didn't ask you before, but when did you</p> <p>2 become manager of operations?</p> <p>3 A. 2003.</p> <p>4 Q. And what's the difference in the job as</p> <p>5 manager of operations as compared to technical</p> <p>6 superintendent?</p> <p>7 A. Technical superintendent is assigned to a</p> <p>8 group of vessels to take care of the maintenance</p> <p>9 planning, to monitor the maintenance, to coordinate</p> <p>10 with regard to supply of spare parts, and to schedule</p> <p>11 dry dockings for the vessel.</p> <p>12 Manager of operations department -- in</p> <p>13 2003 we started off a new department, being the</p> <p>14 operations department, headed by myself, and it was</p> <p>15 implemented in order to improve our service towards</p> <p>16 our customers, being the ships' owners, and then</p> <p>17 especially with respect to cargo claim prevention,</p> <p>18 and to have a better monitoring body within our</p> <p>19 company with regard to cargo care and all related</p> <p>20 matters: To go ashore, to present hires <i>prevent off-hires</i>, and to</p> <p>21 reduce cargos.</p> <p>22 Q. Cargo claims, that's what you said?</p> <p>23 A. Yeah.</p> <p>24 Q. When you became manager of operations, did</p> <p>25 you retain any responsibilities related to the LUZON</p>	<p>16</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6 A. We learned in the due course of 2003 that</p> <p>7 this incident happened.</p> <p>8 Q. You mean that --</p> <p>9 A. Or that these allegations were reported.</p> <p>10 Q. Are you talking about Mr. Turner's --</p> <p>11 A. Yeah.</p> <p>12 Q. -- claim?</p> <p>13 A. Yeah.</p> <p>14 Q. Okay. How did you learn that?</p> <p>15 A. We learned it via our legal department in</p> <p>16 our Antwerp office.</p> <p>17 Q. Do you remember when in 2003 that would</p> <p>18 have been?</p> <p>19 A. I think that was around June or July.</p> <p>20 Q. Okay. All right, you were -- I interrupted</p> <p>21 you. I'm sorry.</p> <p>22 A. And, well, we were of the opinion that the</p> <p>23 ship was fully certified in compliance with all the</p> <p>24 rules and regulations as required on a brand new</p> <p>25 ship. We did not have any complaints or claims</p>

<p>18</p> <p>1 whatsoever of a similar nature, and we informed the</p> <p>2 vessel or we requested the vessel about this. And I</p> <p>3 do not recall exactly when this happened.</p> <p>4 Q. Do you know if --</p> <p>5 A. If there were any -- any particulars or</p> <p>6 anything -- any particular about this hatch lids and</p> <p>7 they said, no, everything's okay, fine. So just --</p> <p>8 Q. Well, when you received the information</p> <p>9 about this claim --</p> <p>10 A. Yeah.</p> <p>11 Q. -- in 2003, in July or thereabouts --</p> <p>12 MR. WHELAN: He said June or July.</p> <p>13 Q. (BY MR. GRUBER): Okay -- June or July, were</p> <p>14 you still functioning as technical superintendent for</p> <p>15 the ship, or had you already become manager of</p> <p>16 operation?</p> <p>17 A. No, I wasn't -- of course, it was a</p> <p>18 handover period between myself and my successor. And</p> <p>19 I -- I would have to check the exact date of</p> <p>20 handover. I don't have them here. I don't know them</p> <p>21 by heart.</p> <p>22 Q. When you got the information, did you</p> <p>23 personally speak to anybody aboard the ship about</p> <p>24 this matter?</p> <p>25 A. Yeah, I did speak with them.</p>	<p>20</p> <p>1 request?</p> <p>2 MR. GRUBER: Well --</p> <p>3 MR. WHELAN: Because if so, I'm going</p> <p>4 to object to him testifying about investigation that</p> <p>5 I requested. I mean, I obviously as part of my</p> <p>6 defense asked them to do certain things to assist me</p> <p>7 in defending them, and I think you're getting into an</p> <p>8 area that's privileged.</p> <p>9 MR. GRUBER: Well, let's --</p> <p>10 Q. (BY MR. GRUBER): All right. If you can</p> <p>11 distinguish between what Mr. Whelan just said, other</p> <p>12 than something that you were asked to do by</p> <p>13 Mr. Whelan, or anybody in Mr. Whelan's office, did</p> <p>14 anybody at Seatrade make any attempt to find out</p> <p>15 whether anybody aboard the ship who was serving as a</p> <p>16 crew member or an officer at the time had any</p> <p>17 information that would be helpful in connection with</p> <p>18 determining what had happened?</p> <p>19 A. Besides the requests of Mr. Whelan, no, we</p> <p>20 didn't.</p> <p>21 Q. Pardon me?</p> <p>22 A. Besides the requests from Mr. Whelan, I</p> <p>23 believe not.</p> <p>24 Q. Did you personally ever speak with Able</p> <p>25 Seaman Medenilla about any information that he had</p>
<p>19</p> <p>1 Q. Who did you speak with?</p> <p>2 A. The captain.</p> <p>3 Q. Captain Mobach or somebody else or the</p> <p>4 captain who was aboard the ship at that time?</p> <p>5 A. Yeah, the captain who was aboard the ship</p> <p>6 at that time. I don't know who it was, sorry.</p> <p>7 Q. Did you ask for any written report</p> <p>8 regarding the matter?</p> <p>9 A. No. Once again, we -- we were of the</p> <p>10 opinion and we believed it was a very normal</p> <p>11 situation with the hooks and the eyes, and we had no</p> <p>12 special reason to -- to go deeper into that at that</p> <p>13 stage.</p> <p>14 Q. Do you know whether anyone at Seatrade --</p> <p>15 and I'm not including lawyers or anything of that</p> <p>16 nature -- but anybody in the Seatrade organization</p> <p>17 did anything in the way of an investigation into this</p> <p>18 matter to determine what happened or didn't happen,</p> <p>19 whether there were anybody -- whether there was</p> <p>20 anybody in the crew or the officers who were serving</p> <p>21 at that time had any information that might be</p> <p>22 helpful?</p> <p>23 A. Yes, we --</p> <p>24 MR. WHELAN: Do you -- hold on a</p> <p>25 second. Are you including in that as a result of my</p>	<p>21</p> <p>1 about this matter?</p> <p>2 A. No.</p> <p>3 Q. Did you ever receive any report or</p> <p>4 information regarding what had happened -- strike</p> <p>5 that -- regarding the condition of the hook-and-eye</p> <p>6 in question after November 8, 2002?</p> <p>7 A. No.</p> <p>8 Q. Do you understand my question? I don't</p> <p>9 think I made it very clear.</p> <p>10 A. Yes, just go back and --</p> <p>11 Q. I'm not sure I understood it either. I</p> <p>12 don't know how you can understand it.</p> <p>13 MR. WHELAN: I think what Mr. Gruber's</p> <p>14 asking is: Did you find out whether the hook was</p> <p>15 damaged or repaired or modified --</p> <p>16 MR. GRUBER: Right.</p> <p>17 MR. WHELAN: -- after the accident of</p> <p>18 November 2002?</p> <p>19 Q. (BY MR. GRUBER): Did you receive any</p> <p>20 information regarding that subject?</p> <p>21 MR. WHELAN: One way or the other,</p> <p>22 yeah.</p> <p>23 (Witness shakes head)</p> <p>24 Q. (BY MR. GRUBER): Pardon me?</p> <p>25 A. No.</p>

22

1 Q. You didn't get any information?

2 A. I mean, let's have this very clear: This
3 incident occurred in November 2002. Nobody notified.
4 The vessel sailed to various ports after that
5 incident. Nothing happened. Everything was normal.
6 We were absolutely not aware of anything wrong with
7 this hatch lid. That is -- I mean, that is crystal
8 clear.

9 Q. Well, but when you found out about it, did
10 you make any effort to find out whether there had
11 been any damage or there was anything that had
12 occurred to that hook-and-eye?

13 A. Not before we were contacted by Mr. Whelan.
14 Because we were not aware of it.

15 MR. WHELAN: I mean, you can answer
16 the question what you found out about the hook as a
17 result of my asking you.

18 THE WITNESS: Yeah.

19 MR. WHELAN: What, if anything, did
20 you find out? Did you find out -- did you look into
21 whether or not the hook was replaced or seen to be
22 damaged or undamaged after the accident? That's
23 probably a better way.

24 THE WITNESS: Yes, we did a physical
25 observation as a result of this incident.

23

1 Q. (BY MR. GRUBER): I'm sorry, I didn't hear
2 anything you said.

3 A. Yes, we did. As a result of this incident,
4 the allegations which were made, we had a look at it.

5 Q. All right. And what did you do in that
6 connection?

7 A. We -- we informed the ship and -- yeah.

8 Q. No. But I mean, how did you go about
9 finding out whether there was any -- any damage to
10 the hook-and-eye or it had been replaced? What did
11 you do in order to get that information?

12 A. What did you do to get this information is
13 your question? We -- we requested the vessel, if
14 there was anything in particular wrong with this --
15 with this hook-and-eye and there was not.

16 Q. Who told you that?

17 A. I believe we received the information from
18 the captain at that time.

19 Q. And who was the captain at that time?

20 A. I don't remember. I have to check.

21 Q. And was that verbal or written?

22 A. I believe that was verbal.

23 Q. So you don't have any written report to
24 that effect?

25 A. Not that I can recall at this time.

24

1 Q. Well, that captain that you spoke to was
2 not Captain Mobach, correct?

3 A. I have to check who was serving on board at
4 that time.

5 Q. Well, whoever the captain was, do you know
6 how that captain got his information?

7 A. Uh-huh. Sorry?

8 Q. How did the captain get his information
9 about whether there had been anything wrong with that
10 hook back in November 2002?

11 A. How did that captain get this information
12 from -- he received that information from us.

13 Q. Pardon me?

14 A. He received that information from us.

15 Q. No, no, I understand that.

16 A. Okay.

17 Q. But the captain is told that if somebody
18 says they had an accident back in November of 2002 --

19 A. Uh-huh.

20 Q. -- involving this hook-and-eye --

21 A. Uh-huh.

22 Q. -- do you know what method or process the
23 captain used in order to find out whether there had
24 been any damage to that hook-and-eye back in November
25 of 2002?

25

1 A. He reviewed the logbooks.

2 Q. Right.

3 A. He checked probably if there was an
4 incident report issued on the -- listed on the
5 statement of facts, which we saw at an earlier stage.

6 Q. The port log?

7 A. The port log, and the statement of facts
8 which is issued by the agent.

9 Q. Right.

10 A. There is nothing written or indicated on
11 that.

12 Q. Okay.

13 A. We spoke to the captain and chief engineer
14 who were on board at that time. Nobody knows
15 anything about it. It was not reported to anybody.
16 And nothing was observed from our side which
17 indicated that something was wrong or that somebody
18 got injured to such an extent that he, you know --

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1 Q. Were you aware of the fact that that had
2 been done or was going to be done?
3 A. That those pictures were taken you mean?
4 Q. Yes.
5 A. If that's the question, I guess so, yeah.
6 Yeah, I was aware of that. I'm not sure.
7 Q. Do you know who requested that it be done?
8 A. That must have been via Mr. Whelan's
9 office.
10 Q. Do you know the reason -- do you see the
11 color of the hatch lid and the color that the --
12 A. Yeah.
13 Q. -- the dog and the handle and the
14 hook-and-eye are painted --
15 A. Uh-huh.
16 Q. -- that's not the normal color of that
17 equipment. Am I correct about that?
18 A. Well, it is in a -- it is a contrasting
19 color, as we used to say, and I think for the picture
20 it is definitely much clearer when you have white or
21 red contrasting colors.
22 Q. But that's my question.
23 A. Yeah.
24 Q. Was the hatch lid and its equipment painted
25 specially for the purpose of taking the photograph?

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1 A. I think it is for this photograph painted,
2 as it is obviously spotless, and it gives a very
3 clear distinguish in the separate components of this
4 hatch lid. Although our hatch lids and the equipment
5 connected to that are most of the time in a
6 contrasting color painted, it's not always red and
7 white. It can be yellow, like you see in the other
8 pictures, huh?
9 Q. Right. But the -- the hook-and-eye when
10 you were onboard the ship or typically the -- not
11 typically, but if you remember, the hook-and-eye, was
12 it the same color as the hatch lid?
13 MR. WHELAN: In November of 2002 is
14 the question?
15 Q. (BY MR. GRUBER): Yes.
16 A. I do not know that exactly.
17 Q. Okay. And what color was the hatch lid in
18 2002?
19 A. I do not know it. I'm sorry.
20 Q. I know. That's all right. I think we have
21 had some testimony on that.
22 MR. GRUBER: Okay. Let me do a fast
23 look at my notes, and that's probably everything.
24 (Recess taken)
25 MR. GRUBER: Thank you very much.

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1 THE WITNESS: You're welcome.
2 MR. WHELAN: Well, I have a few just
3 quick follow-up questions.
4 MR. GRUBER: Sure.
5 EXAMINATION
6 Q. (BY MR. WHELAN): Just so we are clear, you
7 have just gone over some of the entries -- or two
8 exhibits, P-43, which are the VIS system printouts
9 for the LUZON STRAIT for the time period of August 1
10 through October 1 or August -- either that or
11 August 31st, 2002, and the other group that was
12 marked as Exhibit EE, which covers the time period
13 October 1, 2002, through November 30, 2002.
14 And are there entries for -- in the
15 first exhibit I just described, November -- I'm
16 sorry, September -- for -- strike that.
17 Are there entries in Exhibit P-43 for
18 the time -- for the month of August -- I'm sorry,
19 September 2002 in this P-43?
20 A. Any entries during that period of time
21 you --
22 Q. Yes, before the -- during the month of
23 September.
24 A. Yeah, there are.
25 Q. Okay. Does that indicate to you that

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1 someone was keeping these VIS records --
2 A. We are --
3 Q. -- and entries in September of 2002 for the
4 LUZON STRAIT?
5 A. Yes. You are obliged to keep maintenance
6 records as per ISM and that was complied with.
7 Q. And then similarly for EE, are there
8 entries both for the months of October 2002 and
9 November 2002 contained in that Exhibit EE of the
10 VIS?
11 A. I confirm that in Exhibit EE there are
12 entries for the months of October, November, yeah,
13 for --
14 Q. 2002?
15 A. Exactly. For the period of time 1st
16 October through the period of November 30th, 2002.
17 Q. Okay. So back to --
18 MR. WHELAN: I'm sorry, Stan, what was
19 the first --
20 MR. GRUBER: 44.
21 Q. (BY MR. WHELAN): -- Exhibit 44, which is
22 the inspection report November 2002, you made a
23 comment about the VIS system.
24 A. Uh-huh.
25 Q. That comment did not mean that the VIS

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1 entries were not being kept track of or entered; is
2 that correct?

3 A. That's correct.

4 Q. Okay. That it needed some additional what
5 to -- in your opinion to get it going?

6 A. The VIS was installed on board as a
7 stand-alone computer where all of the basic
8 components of the vessel were included in it,
9 including the safety equipment as required as per the
10 ISM code, and these standard equipment were
11 maintained accordingly in the system.

12 Q. And then what did you -- what needed to be
13 done to expand on that system in your --

14 A. When we received the full drawings and
15 instruction manuals, all details of the equipment
16 will have to be entered into the system.

17 Q. And that's what you were referring to?

18 A. That's what I was referring to.

19 Q. All right. Then when you were talking
20 about the VIS documents in EE, which would also apply
21 to P-43, you mentioned that the printout of
22 information about jobs, that that means maintenance
23 and repair jobs?

24 A. Yeah.

25 Q. And then an additional -- sometimes there's

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1 checks that are entered into the VIS system?

2 A. Correct.

3 Q. And I think Mr. Gruber asked you about in
4 Exhibit 44 this photograph of the masthouse.

5 MR. GRUBER: Deck house?

6 Q. (BY MR. WHELAN): I'm sorry, the deck house.
7 Here it is, No. 16. He said that -- pointed to some
8 items and said it looked to him like there was some
9 rope there or something, and you said you really
10 couldn't tell.

11 A. That's correct.

12 Q. Now, sometimes do ships' crews put ropes
13 around handles to be able to lift up the covers
14 easily?

15 A. Correct.

16 Q. If it is there, could that be a reason why
17 it's there?

18 A. Could be, yeah.

19 Q. And I think you have explained this in some
20 detail, but I wanted to make sure it's clear for the
21 record. The LUZON STRAIT, before it was purchased
22 and delivered to the owners for whom Seatrade acts --

23 A. Uh-huh.

24 Q. -- this vessel was ordered at that shipyard
25 by a totally unrelated owner; is that correct?

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1 A. Correct.

2 Q. And they are the ones that were involved
3 with the shipyard during the construction of the
4 vessel; is that correct?

5 A. That's correct.

6 Q. And it wasn't until after the construction
7 was completed that the owners -- present owners of
8 the LUZON STRAIT became involved?

9 A. That's correct.

10 Q. And it was a situation where now the
11 shipyard was stuck with the ship because the original
12 owner wasn't going to carry through on the contract
13 and they needed to sell the ship?

14 A. Correct.

15 Q. Okay. Was Seatrade at all involved in the
16 design or construction of the LUZON STRAIT --

17 A. Negative.

18 Q. -- at the shipyard?

19 A. No, we were not involved.

20 Q. Now, Mr. Gruber had asked you about after
21 learning about the accident, alleged accident of
22 Mr. Turner, some inquiries were made to determine
23 what the vessel knew or what people would know about
24 the reporting of the accident and the securing device
25 and the access lid.

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1 First of all, was the accident ever
2 reported by the stevedore and company or Mr. Turner
3 so far as you know to the vessel's command or to
4 Seatrade?

5 A. No. Nobody reported anything neither to
6 the captain or the duty officer or whatsoever.

7 Q. Okay. And --

8 A. And --

9 Q. Okay. Go ahead.

10 A. They also were asked if they noticed
11 somebody crawling from the ship or giving an injured
12 impression or something like that. Nothing was the
13 case.

14 Q. Okay. And --

15 A. Besides that -- if I may continue on this
16 point?

17 Q. Yeah.

18 A. -- the vessel remained alongside for
19 another, I guess, six hours or so after discharging
20 to perform this USDA certification, which can be
21 confirmed by the attending USDA officials. So there
22 was plenty of time to let anybody know if there was
23 an accident whatsoever.

24 Q. And did you -- or are you aware of people
25 asking Captain Mobach, who testified yesterday --

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1 A. Uh-huh.

2 Q. -- whether he went and -- whether he --

3 whether he knew about -- strike that.

4 Was Mr. -- was Captain Mobach asked to

5 confirm whether or not there were any repairs done to

6 this particular securing device and access cover

7 during his command?

8 A. He was asked, yes.

9 Q. All right. And what was -- what were the

10 results of that when he was asked that?

11 A. He responded negative. It was a no.

12 Q. And was he --

13 A. Or during his presence.

14 Q. And was he asked whether he ever -- whether

15 the securing device was damaged at all after it left

16 Wilmington?

17 A. Yes. We -- we asked these questions to

18 him.

19 Q. And what was his response?

20 A. As a result of the allegations we received

21 in 2003, which is once again quite some time later.

22 And well, nobody knew anything. So no records,

23 nobody saw a bent hook or a broken hook or a damaged

24 hook, nothing at all of that.

25 Q. Okay. And was he -- was he asked whether

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1 this hook was ever replaced or repaired?

2 A. Yes.

3 Q. And what did he advise people at the

4 office?

5 A. Not during his presence of work.

6 MR. WHELAN: Okay. That's all that I

7 have. Thanks.

8 MR. GRUBER: Okay. Thank you very

9 much.

10 (Proceedings concluded at 2:51 p.m.)

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1 CHANGES AND SIGNATURE

2 PAGE LINE CHANGE REASON

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5 I declare under penalty of perjury that the

6 foregoing is true and correct.

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9

10 CAPTAIN MARK ROBERT JANSEN

11

12 SUBSCRIBED AND SWORN TO BEFORE ME, the

13 undersigned authority, by the witness, CAPTAIN MARK

14 ROBERT JANSEN, on this the ____ day of

15 _____, 2005.

16

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19 NOTARY PUBLIC IN AND FOR

20 THE STATE OF _____

21 My Commission Expires: _____

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CAPTAIN MARK ROBERT JANSEN - JUNE 16, 2005

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CHANGES AND SIGNATURE

PAGE LINE CHANGE

REASON

Page 5/15 Line 20-21 should read:

To go short, to prevent off-hires, and to reduce cargo claims. (reason: wrongly noted down).

Page 10/37 Line 7-D should read:

Job van Lon. (reason: wrongly spelled).

Page 11/40 Line 23 should read:

"classification society" instead of (investigation)
(reason: wrongly noted).

Page 13/46 Line 24 should read:

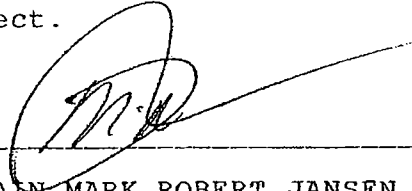
"AUGUST 2002" instead of (AUGUST 2000).
(reason: wrongly noted).

CAPTAIN MARK ROBERT JANSEN - JUNE 16, 2005

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10 CAPTAIN MARK ROBERT JANSEN

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12 SUBSCRIBED AND SWORN TO BEFORE ME, the
13 undersigned authority, by the witness, CAPTAIN MARK
14 ROBERT JANSEN, on this the 20 day of
15 July, 2005.

16
17
18 NOTARY PUBLIC IN AND FOR
19 THE STATE OF _____

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21 My Commission Expires: _____
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24
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CAPTAIN MARK ROBERT JANSEN - JUNE 16, 2005

108

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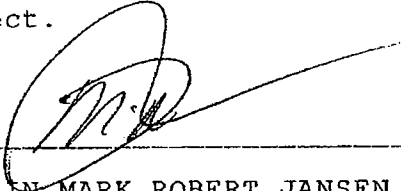
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CAPTAIN MARK ROBERT JANSEN - JUNE 16, 2005

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